

UNITED STATES DISTRICT COURT

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DISTRICT OF OREGON

CHRISTINE T. HO,

No. CV04-1856-ST

Plaintiff,

ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATION

v.

JO ANNE B. BARNHART,
COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

MOSMAN, J.,

On January 13, 2006, Magistrate Judge Stewart issued Findings and Recommendation ("F&R") (docket #15) in the above-captioned case recommending the Commissioner's denial of Ms. Ho's application for social security benefits be reversed and remanded for an immediate award of benefits. On January 20, 2006, defendant filed objections (#16) to the F&R. Plaintiff did not file objections or a response.

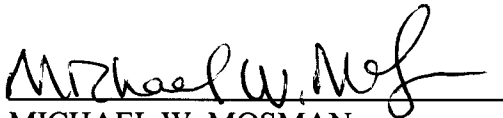
In conducting my review of the F&R, I apply the following standard. The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions

of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, the court is free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

The court agrees with Judge Stewart's recommendation to reverse and remand to the Commissioner, pursuant to sentence four of 42 U.S.C. § 405(g) for an immediate calculation and award of benefits. Therefore, the court adopts the F&R without modification.

IT IS SO ORDERED.

DATED this 13 day of April, 2006.


MICHAEL W. MOSMAN
United States District Court